

By: Lozano

H.B. No. 3939

A BILL TO BE ENTITLED

AN ACT

relating to the exercise of the power of eminent domain by a common carrier pipeline.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 111.019, Natural Resources Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) In the exercise of the power of eminent domain granted under the provisions of Subsection (a), a common carrier shall make a good faith effort to negotiate with the owner of property sought to be condemned with regard to the particular route or location of the pipeline or incidental facility on the owner's property. The requirement to negotiate provided in this subsection:

(1) may not be construed to allow an owner of property to unreasonably refuse to agree to a particular route proposed by the common carrier or to negotiate a route or location of a pipeline or incidental facility on property not owned by the property owner; and

(2) is presumed to be satisfied if the common carrier or its employees, contractors, agents, or assigns contact the property owner in person, by telephone, or through certified mail, return receipt requested, and the property owner does not respond before the 15th day after the date of contact.

(e) Before entering property for the purpose of making a preliminary survey to be used in the exercise of the power of

1 eminent domain granted under this section, the common carrier or
2 its employees, contractors, agents, or assigns shall obtain from
3 the property owner a written authorization for the right to enter
4 the property. A written authorization under this subsection:

5 (1) may not be unreasonably refused by a property
6 owner; and

7 (2) must:

8 (A) require notice before entering the property
9 under the authorization;

10 (B) require the authorized access to be at a time
11 that is agreeable to both the common carrier and the property owner;

12 (C) limit the right of entry to only the portion
13 of the property that is affected by the proposed pipeline;

14 (D) limit the right of entry to the purpose of
15 conducting surveys;

16 (E) prohibit the cutting, removal, or relocation
17 of a fence for the purpose of conducting the survey without the
18 prompt restoration or repair of the fence;

19 (F) require the restoration of property to be as
20 close as possible to the original condition before entry;

21 (G) require all equipment and tools used in the
22 survey to be removed by a certain date;

23 (H) require the common carrier or its employees,
24 contractors, agents, or assigns to promptly repair or remediate any
25 damage caused by the common carrier or its employees, contractors,
26 agents, or assigns while on the property;

27 (I) provide an indemnification provision in

1 favor of the property owner;

2 (J) require that the property owner, on written
3 request, be provided, at no charge, all non-privileged information
4 gathered from the entry, including surveys, reports, maps, and
5 photographs; and

6 (K) provide for an expiration date for the
7 authorization.

8 SECTION 2. The changes in law made by this Act to Section
9 [111.019](#), Natural Resources Code, apply only to a condemnation
10 proceeding in which the petition is filed on or after the effective
11 date of this Act and to any property condemned through the
12 proceeding. A condemnation proceeding in which the petition is
13 filed before the effective date of this Act and any property
14 condemned through the proceeding are governed by the law in effect
15 immediately before that date, and that law is continued in effect
16 for that purpose.

17 SECTION 3. This Act takes effect September 1, 2019.